

REMARKS

In response to the Official Action of May 5, 2004, Claims 1 and 2 are cancelled and new Claims 27-38 are added.

As set forth in the Remarks in the Preliminary Amendment which was filed with this Application, it is a Divisional Application intended to be directed to the Group I species, that is the Figure 1, claims in U.S. Application Serial No. 09/828,911, filed April 10, 2001, which issued as U.S. Patent No. 6,651,584, having an issuance date of November 25, 2003. It was also indicated that it was contemplated that Claims 1 and 2 would eventually be cancelled and superseded by new claims which are more nearly in a format and language customary for U.S. patent applications.

It is submitted that the new claims submitted herewith are in a format and language customary for U.S. patent applications, and are directed to Figure 1 of the instant Application.

In the Official Action, on page 2, paragraph 2, the disclosure was objected to because it was not in a form customary for U.S. patent applications. It was suggested that the Substitute Specification entered for the parent case be submitted for entry in the instant Application. This suggestion has been followed and the Substitute Specification filed herewith is, it is proffered, in a form customary for U.S. practice.

Concerning the claim language objections to Claims 1 and 2, set forth in paragraph 3, on page 2, it will be observed that by the cancellation of Claims 1 and 2 and the submission of Claims 27-38, the objectionable subject matter has been eliminated.

In paragraph 4, which bridges pages 2 and 3, of the Official Action, Claims 1 and 2 were rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 5,669,328, which issued to Lanfranchi, in 1997, for an automatic animal feeding system. It is stated in the Official Action

that Lanfranchi discloses a feed metering device provided with a feed unit for containing feed at an entrance (i.e. 22 when facing towards the animal) provided with a closing means (cover 20) that is movable across the entrance opening characterized in that the closing means rotates about an axis, the closing means being driven by a roll (44) that contacts the closing means and the roll is driven by a motor (42) further characterized in that the feed metering device comprises an animal identification device (46), wherein the roll is controlled with the aid of data from the identification device. In response it will be noted that independent Claim 27 comprises a hinge pin, the feed unit being pivotable about such hinge means. It also includes a weighing device for determining the degree of pivoting of the feed unit about the hinge means and thereby deducing the weight of fodder or drink, or both, in the feed unit. Clearly Claim 27 does not read on Lanfranchi and therefore a rejection based on 35 U.S.C. §102 for anticipation is not applicable.

Also, in paragraphs 6 and 7 bridging pages 3 and 4, a non-statutory double patenting rejection based on a judicially created doctrine grounded in public policy so as to prevent the unjustified or improper time-wise extension of the "right to exclude" be granted by a patent and to prevent possible harassment by multiple assignees, was made based on Claims 10 and 11 of U.S. Patent No. 6,651,584.

It is respectfully submitted that insofar as new Claims 27-38 are concerned, the judicially created doctrine of double patenting does not apply. In this connection, it will be noted that Figure 1 does not include a closing means which is movable generally upwardly across the entrance opening for closing that entrance opening. In addition, Claims 10 and 11 do not include the element of a hinge pin from which the feed unit is pivotable or a weighing device for determining the degree of pivoting of the feed unit about the hinge pin whereby the weight of the feed or drink, or both, in the feed unit can be deduced.

In view of the foregoing, it is submitted that neither the rejection under 35 U.S.C. §102 based on the Lanfranchi reference, nor the rejection based on the judicially created doctrine of double patenting, is appropriate and should be withdrawn.

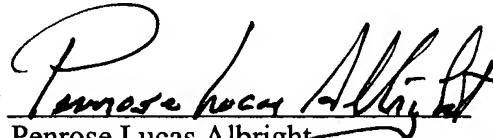
Further consideration and reexamination of this Application, in its amended form, is requested in view of 35 U.S.C. §132 and regulations in implementation thereof. It is submitted the Application in its amended form is free from ambiguity and avoids the references of record. It is further submitted the Examiner should have no difficulty in finding that the differences between the subject matter sought to be patented in this Application and prior art and usage within her expert knowledge are such that the subject matter as a whole would not have been obvious at the time the invention was made to persons having ordinary skill in the art to which the subject matter of this Application pertains.

In view of the foregoing, the allowance of claims as now presented is earnestly solicited.

Respectfully submitted,

MASON, MASON & ALBRIGHT

By


Penrose Lucas Albright
Registration No. 19,082

2306 South Eads Street
P.O. Box 2246
Arlington, VA 22202
Tel (703) 979-3242
Fax (703) 979-2526

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